saalt
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Preparing for Immigration Relief | JANUARY 2015

Thousands of South Asian community members stand to benefit for protection from deportation, remain with their families, and obtain work authorization with President Obama's recent executive action on immigration announced in November 2014. The new executive action creates the Deferred Action for Parental Accountability (DAPA) program, expands the Deferred Action for Childhood Arrivals (DACA) program for eligible immigrant youth, revises immigration enforcement priorities, and advances policies to support immigrant victims of crimes, as well as some high-skilled industry workers in the U.S. The Pew Research Center has estimated that India alone sends the fourth-highest number of undocumented immigrants to the U.S. More than 40% of the roughly 450,000 undocumented Indians are expected to be eligible for these new programs, as well as individuals from Bangladesh, Pakistan, Nepal, and other South Asian countries also likely qualify. The DAPA and DACA programs are important options for South Asian immigrants nationwide, and ensuring that our community members can apply for the protections and rights provided through these is critical. While the government has yet to specify the exact start-date for the new programs, below is some key information we have so far. Visit www.saalt.org or http://www.uscis.gov/immigrationaction for updates and start dates for these programs.

Who's Eligible?

For more information visit https://nilc.org/relief.html

- Individuals applying for DACA or DAPA are eligible to apply for work authorization for a three-year period. Both DACA and DAPA are still temporary but renewable for a period of three years. The DAPA application process is not anticipated to begin until May 2015.
- Individuals applying for DACA or DACA renewal on or after November 24, 2014, will be given a DACA extension and work authorization for three years, pending approval of their application.

Deferred Action for Childhood Arrivals (DACA)

To be eligible for DACA right now, you must:

Have arrived in the U.S. before age 16.

Have continuously resided in the U.S. since before June 15, 2007 and were present in the U.S. on June 15, 2012.

Currently be in school, have graduated from high school, have obtained a general education development (GED) certificate, or be an honorably discharged veteran of the U.S. Coast Guard or Armed Forces.

Not have been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise "pose a threat to national security or public safety."

Not be above the age of 30.

Extended Deferred Action for Childhood Arrivals (DACA)

Applications for the new, expanded DACA program are expected to be processed in February 2 015. To be eligible, you must:

Have arrived in the U.S. before age 16.

Have continuously resided in the U.S. since before January 1, 2010.

Currently be in school, be enrolled in a higher education institution, have graduated from high school, have obtained a general education development (GED) certificate, or be an honorably discharged veteran of the U.S. Coast Guard or Armed Forces.

Not have been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise "pose a threat to national security or public safety."

NOTE: There is no age bar for extended DACA.

Deferred Action for Parental Accountability (DAPA)

To be eligible for DAPA right now, you must:

Have a son or daughter who is a U.S. citizen or lawful permanent resident (LPR) as of November 20, 2014.

Have continuously resided in the U.S. since before January 1, 2010.

Have been physically present in the U.S. on November 20, 2014, and at the time of request for consideration for deferred action through the DAPA program's application process.

Have no lawful immigration status as of November 20, 2014.

Not fall under Department of Homeland Security enforcement priority categories. (See below for more info.)

Present no other factors that would make you ineligible for this status.

How to Prepare for DAPA:

Save money for the application fee (currently $465).

Obtain proof of your identity, such as a passport from your home country or a birth certificate with a photo ID.

Gather proof of your relationship to U.S. citizen or LPR family members.

Gather proof of how long you have lived in the U.S.

If you have a criminal conviction, check with an attorney to see if you can expunge, vacate, or modify the conviction.

If you have a prior deportation or removal order, check with an attorney or Board of Immigration Appeals (BIA)-accredited representative.

Applying for DACA & DAPA:

To apply for DACA or renew DACA, visit www.uscis.gov/childhoodarrivals.

Fees to apply for DACA are currently $465, with limited fee waivers.

U.S. Citizenship and Immigration Services (USCIS) is expected to begin accepting applications for expanded DACA in February 2015 and DAPA in May 2015.

Keep checking www.uscis.gov for confirmed program start dates.

Visa Changes in Early 2015

Visas for high-skilled workers awaiting green cards are expected to include greater job flexibility, including portable work authorization. Some spouses of high-skilled workers awaiting green cards are expected to receive limited options to apply for work authorization. Please review the President's fact sheet for more information.

U & T visas: The U.S. Department of Labor Wage & Hour Division (WHD) will add three new qualifying crimes that victims can use as the basis for a U visa application: extortion, forced labor, and fraud in contracting workers from foreign countries. The WHD will also complete T visa applications for individuals when trafficking is detected during a WHD workplace investigation. For more information, please visit the Department of Labor fact sheet.

Detention & Deportation Priority System and Replacing Secure Communities

The President has established three new priority categories for deportation. Priority 1 includes threats to national security, border security, and public safety; Priority 2 includes those who are convicted of misdemeanors and immigrant 'violators' who have recently attempted to enter the US without authorization; and Priority 3 includes "other immigration violations." This three-tiered system gives Department of Homeland Security (DHS) greater discretion on whether to prosecute an undocumented individual.

The Priority Enforcement Program (PEP) will replace Secure Communities. Immigration and Customs Enforcement (ICE) has been instructed to make this change, but a timeline has not been outlined. Please note, PEP will replace Secure Communities by re-prioritizing causes for deportation, not eliminating them.

And, PEP will not replace other programs, such as 287(g) or the Criminal Alien Program. Under PEP, Immigration and Customs Enforcement (ICE) will still rely on fingerprint-based biometric information obtained when individuals are booked by state and local law enforcement; however, DHS states that ICE should only transfer an undocumented individual if they have been convicted of an offense listed in certain provisions within the Priority 1 and Priority 2 categories. Even when Secure Communities is replaced with PEP, it is unclear whether the number of deportations will decrease significantly.

Federal Health & Economic Support Programs

Under DACA and DAPA, individuals will **not** have access to health coverage under the Affordable Care Act or any other federal support program, including SNAP (food stamps), TANF (welfare), and public housing subsidies (such as Section 8). DACA and DAPA recipients will be eligible for Social Security retirement benefits and Medicare after 10 years of work history, paid taxes, and reaching the age of 66. For more information, please visit www.nilc.org.

Know Your Rights and Protect Yourself from Exploitation

Be wary of assistance from people claiming to be notaries public and immigration consultants. Seek out a reputable attorney or BIA-accredited representative for help with your specific case. You can find a lawyer through databases at iAmerica and the American Immigration Lawyers Association.

Additional Resources

For further help and resources, please visit or contact the following organizations:

American Immigration Lawyers Association | aila.org

Asian American Legal Defense and Education Fund | aaldef.org

iAmerica.org

National Immigration Law Center | nilc.org

Own the Dream | weownthedream.org

South Asian Americans Leading Together | saalt.org

United States Citizenship and Immigration Services (USCIS) | uscis.gov

United We Dream | unitedwedream.org

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